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Agenda item 6(b)
Matters relating to the mechanisms under the Kyoto Protocol
Review of the joint implementation guidelines

Review of the joint implementation guidelines

Draft conclusions proposed by the Chair

1. The Subsidiary Body for Implementation (SBI) continued its consideration of the review of the guidelines for the implementation of Article 6 of the Kyoto Protocol[1] (joint implementation guidelines), with a view to recommending a draft decision on the matter for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its tenth session (December 2014), in accordance with decision 6/CMP.8, paragraphs 14–16.

2. The SBI agreed to continue its consideration of this matter at SBI 41 (December 2014) on the basis of the draft decision text proposed by the co-chairs of the informal consultations on this agenda sub-item and contained in the annex.

[1] Annex to decision 9/CMP.1.

Please recycle

Annex

[English only]

Draft decision -/CMP.10

[The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol,

Recalling the provisions of Articles 3 and 6 of the Kyoto Protocol and decisions 1/CMP.6,

Cognizant of decisions 2/CMP.1, 9/CMP.1, 10/CMP.1, 2/CMP.2, 3/CMP.2, 3/CMP.3, 5/CMP.4, 3/CMP.5, 4/CMP.6, 11/CMP.7 and 6/CMP.8,

1. *Takes note* of with appreciation the recommendations from the Joint Implementation Supervisory Committee regarding the review of the guidelines for the implementation of Article 6 contained in decision 9/CMP.1;

2. *Also takes note* of with appreciation the submissions by Parties, intergovernmental organizations and admitted observer organisations on possible ways in which decision 9/CMP.1 and other decisions of the Conference of the Parties serving as the meeting of the Parties should be revised, as well as the compilation report prepared by the secretariat summarizing these submissions;

3. *Decides* to adopt the modalities and procedures for the implementation of Article 6 of the Kyoto Protocol "Joint Implementation" (hereinafter referred to as the joint implementation modalities and procedures) contained in the annex;

4. *Also decides* that decisions of the Conference of the Parties serving as the meeting of the Parties relating to joint implementation, but excluding the annex to decision 9/CMP.1, shall apply mutatis mutandis to joint implementation under the joint implementation modalities and procedures, where those decisions are still applicable;

5. *Requests* the Joint Implementation Supervisory Committee, Parties included in Annex I and the secretariat to take the necessary measures to facilitate the implementation of this decision;

6. *Also requests* the Joint Implementation Supervisory Committee to make recommendations to the Conference of the Parties serving as the meeting of the Parties at its tenth session (December 2014) on necessary changes to:

(a) The rules of procedure as adopted by decision 2/CMP.2;

(b) Other decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol;

7. *Decides* that the joint implementation modalities and procedures shall become effective on [1 January 2015] (effective date);

8. *Also decides* that joint implementation projects that have, by the date of adoption of this decision, been deemed final in accordance with decision 9/CMP.1, annex, paragraph 35, or established in accordance with paragraph 23 of that annex, may select either:

(a) To be deemed registered under the joint implementation modalities and procedures from [1 January 2015]; or

(b) To continue to operate under decision 9/CMP.1;

9. *Further decides* that after [1 January 2015] the joint implementation modalities and procedures shall apply to all projects other than those referred to in paragraph 8 above;

10. *Decides* that the Joint Implementation Supervisory Committee shall continue to apply decision 9/CMP.1 to projects selecting to continue operation under decision 9/CMP.1 in accordance with paragraph 8(b) above;

11. *Also decides* that accredited independent entities shall be deemed accredited under the joint implementation modalities and procedures from [1 January 2015];

12. *Further decides* that, after the effective date, all accreditation and reaccreditation shall be under the joint implementation modalities and procedures;

13. *Decides* that the joint implementation modalities and procedures shall apply to all accredited independent entities by no later than 24 months after the effective date;

14. *Also decides* that the transition to the new membership rules for the Joint Implementation Supervisory Committee shall be managed in accordance with the following rules:

(a) Members and alternate members elected in accordance with the annex to decision 9/CMP.1 at the Conference of the Parties serving as the meeting of the Parties at its ninth session shall, notwithstanding decision 9/CMP.1, annex, paragraph 5, serve a term until immediately before the first Joint Implementation Supervisory Committee meeting of 2015;

(b) Members elected at the Conference of the Parties serving as the meeting of the Parties at its tenth session shall be elected in accordance with the rules set out in the annex.]

Appendix

Modalities and procedures for the implementation of Article 6 of the Kyoto Protocol "Joint Implementation"

I. Definitions

1. For the purpose of the modalities and procedures for joint implementation contained in this document, the definitions contained in the Kyoto Protocol shall apply.

2. An "emission reduction unit" (ERU) is a unit issued pursuant to Article 6 of the Kyoto Protocol and requirements under the Kyoto Protocol, including the relevant provisions of these modalities and procedures as amended or replaced from time to time, and is equal to one metric tonne of carbon dioxide equivalent, calculated using global warming potentials defined by decision 2/CP.3 or as subsequently revised in accordance with Article 5.

3. "Joint implementation" (JI) refers to the mechanism defined in Article 6 of the Kyoto Protocol.

4. A "joint implementation activity" (JI activity) is an activity pursuant to Article 6 of the Kyoto Protocol that reduces anthropogenic emissions of greenhouse gases (GHGs) by sources or enhances anthropogenic removals of GHGs by sinks.

II. Role of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

5. The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) shall exercise authority over, and provide guidance to, the Joint Implementation Supervisory Committee (hereinafter referred to as JISC).

III. Joint Implementation Supervisory Committee

A. Functions

6. The JISC shall supervise JI, under the authority and guidance of the CMP, to which it shall be accountable.

7. The JISC shall elaborate its rules of procedure for consideration by the CMP and subsequently recommending to the CMP any revisions to such rules.

8. The JISC shall also set minimum technical requirements for JI activities, after collaboration with host Parties, stakeholders and, as appropriate, the Executive Board of the clean development mechanism, that ensure the additionality of emission reductions and quality assurance, quality control and consistency of their measurement.

9. The technical requirements referred to in paragraph 8 above shall provide criteria for the demonstration of additionality, through ensuring prior consideration of JI for proposed JI activities, the use of positive lists, performance benchmarks and financial return benchmarks, and the objective demonstration of barriers ensuring that positive lists are applied only in areas where there is low risk of non-additonality.

10. The technical requirements referred to in paragraph 8 above shall also provide objective criteria for the establishment of baselines, including standardized baselines, that reasonably represent the anthropogenic emissions by sources or anthropogenic removals by sinks that would occur in the absence of the proposed JI activity, which:

(a) Ensure that the baseline is lower than the relevant current emission levels;

(b) Shall be established on a project-specific, programmatic or sectoral basis;

(c) Ensure transparency with regard to the choice of approaches, assumptions, methodologies, parameters, data sources and key factors;

(d) Fully account for relevant existing national and/or sectoral policies, plans and circumstances, such as sectoral reform initiatives, local fuel availability, power sector expansion plans and the economic situation in the sector of the activity sector;

(e) Ensure that ERUs cannot be issued for decreases in activity levels outside of the JI activity or due to force majeure;

(f) Take uncertainties into account and use conservative assumptions, inter alia, by using benchmarking concepts.

11. The technical requirements referred to in paragraph 8 above shall also:

(a) Define the criteria for the inclusion of potential emission sources within a project boundary and the requirements for the accuracy of their monitoring and reporting;

(b) [Allow for net atmospheric benefits, inter alia through the cancellation of ERUs on a voluntary basis] [Ensure net atmospheric benefits, through an automatic [10] per cent share cancelled for the benefit of the environment] [Provide for [net atmospheric benefits], [inter alia] through [reduced issuance of ERUs or] cancellation of ERUs [on a voluntary basis], and assist the host Party in achieving its QELRC for the purpose of meeting its commitment under Article 3 of the Kyoto Protocol through reduced issuance of ERUs].

12. The JISC shall further set minimum requirements to facilitate the development of project cycle procedures by host Parties which ensure provisions in relation to the transparency of decision-making processes, local stakeholder consultation and rights for directly affected entities to hearings prior to decision-making, timely decisions and appeals of decisions.

13. The JISC shall also be responsible for, inter alia, the following:

(a) Facilitating the sharing and dissemination of recommendations and best practices for the operationalization of JI among Parties in a collaborative manner;

(b) Accrediting independent entities;

(c) Providing oversight in the issuance of ERUs by host Parties;

(d) Establishing procedures for the collection of fees to cover the administrative costs of the JISC and its support structure;

(e) [Assessing the conformity of implementation of JI by host Parties with these modalities and procedures and the minimum requirements and procedures referred to in paragraph 8 above through initial assessments of implementation by Parties followed by regular assessments to monitor ongoing implementation;]

(f) Undertaking reviews of selected JI activities as set out in paragraph 48 and 55 below and, where appropriate, [withholding the process of issuance of ERUs];

(g) Promoting awareness of JI;

(h) Reporting on its activities to each session of the CMP;

(i) Performing any other functions assigned to it by the CMP.

B. Membership

[Option 1:

14. The JISC shall comprise 10 members from Parties to the Kyoto Protocol, as follows:

(a) Three members from Parties included in Annex I that are undergoing the process of transition to a market economy;

(b) Three members from Parties included in Annex I not referred to in subparagraph (a) above;

(c) Three members from Parties not included in Annex I;

(d) One member from the small island developing States.

15. Members shall be nominated by the relevant constituencies referred to in paragraph 14 above and be elected by the CMP. The CMP shall also elect an alternate member for each member of the JISC based on the criteria in paragraph 14 above. The nomination by a constituency of a candidate member shall be accompanied by a nomination of a candidate alternate member from the same constituency.

15bis. For the first year of operation of the JISC, the CMP shall elect to the JISC five members and five alternate members for a term of two years and five members and five alternate members for a term of one year. Members and alternate members for the initial one-year term shall be selected proportionately from the four groups referred to in paragraph 14 above. Thereafter, the CMP shall elect every year, five new members and five new alternate members for a term of two years. Members and alternate members shall remain in office until their successors have been elected.]

[Option 2:

14. The JISC shall comprise 20 members from Parties to the Kyoto Protocol, as follows:

(a) Six members from Parties included in Annex I that are undergoing the process of transition to a market economy;

(b) Six members from Parties included in Annex I not referred to in subparagraph (a) above;

(c) Six members from Parties not included in Annex I;

(d) Two members from small island developing States.

15. Members shall be nominated by the relevant constituencies referred to in paragraph 14 above and be elected by the CMP. For the first year of operation of the JISC, the CMP shall elect to the JISC 10 members for a term of two years and 10 members for a term of one year. Members for the initial one-year term shall be selected proportionately from the four groups referred to in paragraph 14 above. Thereafter, the CMP shall elect every year 10 new members for a term of two years. Members shall remain in office until their successors have been elected.]

16. Members shall be eligible to serve a maximum of three consecutive terms.

17. The JISC shall elect a chair and vice-chair annually from among its members.

18. The JISC shall meet at least twice each year.

19. Each member shall:

(a) Serve in his or her personal capacity;

(b) Have experience and competence in developing policy and strategy within regulatory processes, including in the development or implementation of GHG market mechanisms, and shall possess an understanding of business perspectives regarding investment in the environmental field;

(c) Refrain from participating in the consideration of and decision-making on subjects in relation to which he or she has a real or perceived conflict of interest, including in relation to specific host Parties or JI activities;

(d) Subject to his or her responsibility to the JISC, not disclose any confidential or proprietary information coming to his or her knowledge by reason of his or her duties for the JISC, either during or after his or her term of office on the JISC;

(e) Be bound by the rules of procedure of the JISC;

(f) Take a written oath of service witnessed by the UNFCCC Executive Secretary or his or her authorized representative before the member assumes his or her duties.

20. The JISC may suspend and recommend to the CMP the termination of the membership of a member on certain grounds, including, inter alia, a breach of conflict of interest provisions, a breach of confidentiality provisions or a failure to attend two consecutive meetings of the JISC without proper justification.

21. If a member of the JISC resigns or is otherwise unable to complete the assigned term of office or to perform the functions of that office, the JISC may, bearing in mind the proximity of the next session of the CMP, appoint another member nominated by the same constituency to replace said member for the remainder of that member's term.

22. At least two thirds of the members of the JISC representing a majority of members from Parties included in Annex I and a majority of members from Parties not included in Annex I must be present to constitute a quorum.

C. Procedures

23. Decisions of the JISC shall be taken by consensus, whenever possible. If all efforts to reach consensus have been exhausted and no agreement has been reached, decisions shall as a last resort be adopted by a two-thirds majority vote of the members present and voting at the meeting. Members abstaining from voting shall be considered as not voting.

24. The full text of all decisions of the JISC shall be made publicly available.

25. The working language of the JISC shall be English.

26. The JISC shall conduct its work in such a way as to ensure the transparency and impartiality of its processes and decision-making and to safeguard itself from any conflict of interest.

27. Meetings of the JISC shall be open to attendance, as observers, by all Parties and UNFCCC-admitted observer organizations and stakeholders, except where otherwise decided by the JISC on the grounds of confidentiality.

28. The JISC may delegate functions to the secretariat and to panels, set up by the JISC to support its work, and otherwise draw on technical expertise to perform its functions.

29. Information obtained from activity participants marked as proprietary or confidential shall not be disclosed without the written consent of the provider of the information, except as required by applicable national law of the host Party. Information used to determine whether reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks are additional, describe the baseline methodology and its application, and/or support an environmental impact assessment shall not be considered proprietary or confidential.

30. The secretariat shall service the JISC and its panels.

IV. Host Parties

31. A Party participating in JI shall make publicly available and maintain, in an up-to-date manner, the following:

(a) The contact details of the [designated focal point] [host Party] responsible for approving baselines and registering JI activities hosted by the Party;

(b) Its national standards, procedures and guidelines for all aspects of its implementation of JI and the periods of time in which decisions are to be taken by the designated focal point;

(c) Its national procedures for appealing decisions[, in accordance with national legislation,] by the [designated focal point] [host Party] regarding the registration of JI activities;

(d) An annual summary of its activities in relation to JI.

32. A Party participating in JI shall provide to the secretariat, in English, the information specified in paragraph 31 above within 90 days of the adoption, revision or update thereof.

33. The host Party may, on voluntary basis, determine that a lower amount of ERUs shall be issued than the actual reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks achieved by a JI activity. Any such arrangements should be elaborated in the host Party's national requirements and procedures and shall be indicated prior to the registration of the JI activity, identified as a condition for the activity's registration, made publicly available through the secretariat and taken into account and explained by the accredited independent entity during the verification.

34. Baselines for projects using standardized [or sectoral] baselines shall be reviewed periodically and updated according to transparent criteria established ex ante. [Once national standardized or sectoral baselines have been approved, their use shall be mandatory for new projects. However, where existing project-specific (bottom-up) baselines are more ambitious than standardized baselines, bottom-up approaches shall continue to be applied.]

35. A Party participating in JI shall make publicly available, through the secretariat, information on all baselines that it has approved and activities that it has registered or that it has under consideration for approval or registration.

36. [A Party, identified by the JISC in accordance with paragraph 13(e) above as not being in conformity with the mandatory requirements and procedures of JI, shall immediately take action to rectify the identified non-conformities and shall provide written evidence to the JISC to demonstrate that the identified non-conformities have been rectified. The JISC shall make such evidence publicly available (subject to confidentiality). The JISC elaborate the procedure to rectify non-conformities that have resulted in the

transfer of excess of ERUs, assessing options to assign liability for excess issuance for consideration by the CMP.]

37. A Party may authorize legal entities to [participate in] [manage] JI activities. The Party shall remain responsible for the fulfillment of its obligations under the Kyoto Protocol and shall ensure that such participation is consistent with these modalities and procedures and the mandatory standards and procedures referred to in paragraph 8 above. Legal entities may only transfer or acquire ERUs if the authorizing Party is eligible to do so at that time.

V. Eligibility to transfer and acquire [SECTION TO BE UPDATED]

38. [A Party [included in Annex I] with a commitment inscribed in Annex B in the Doha Amendment, as contained in the annex to decision 1/CMP.8, is eligible to transfer and/or acquire ERUs issued in accordance with the relevant provisions, if it is in compliance with the following eligibility requirements:

(a) It is a Party to the Kyoto Protocol;

(b) [Its assigned amount pursuant to Article 3, paragraphs 7 and 8, has been calculated and recorded in accordance with decision 13/CMP.1];

(c) It has in place a national system for the estimation of anthropogenic emissions by sources and anthropogenic removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, in accordance with Article 5, paragraph 1, and the requirements in the guidelines decided thereunder;

(d) It has in place a national registry in accordance with Article 7, paragraph 4, and the requirements in the guidelines decided thereunder;

(e) It has submitted annually the most recent required inventory, in accordance with Article 5, paragraph 2, and Article 7, paragraph 1, and the requirements in the guidelines decided thereunder, including the national inventory report and the common reporting format. For the first commitment period, the quality assessment needed for the purpose of determining eligibility to use the mechanisms shall be limited to the parts of the inventory pertaining to emissions of greenhouse gases from sources/sector categories from Annex A to the Kyoto Protocol and the submission of the annual inventory on sinks;

(f) It submits the supplementary information on assigned amount in accordance with Article 7, paragraph 1, and the requirements in the guidelines decided thereunder and makes any additions to, and subtractions from, assigned amount pursuant to Article 3, paragraphs 7 and 8, including for the activities under Article 3, paragraphs 3 and 4, in accordance with Article 7, paragraph 4, and the requirements in the guidelines decided thereunder.]

VI. Accreditation of independent entities [SECTION TO BE UPDATED]

39. The JISC, in elaborating standards and procedures for accrediting independent entities, shall collaborate with the Executive Board of the clean development mechanism, with a view to unifying the institutional framework, including the standards and procedures for the accreditation of the mechanisms, and shall ensure that the accreditation standards cover, inter alia, the following areas:

(a) The ability of the entity to assume obligations under national or international laws;

(b) Legal and financial liabilities;

(c) Management and decision-making structure;

(d) Competence;

(e) Validation and verification processes, taking into account the principles of materiality;

(f) Impartiality and prevention of conflict of interest;

(g) Safeguarding confidentiality;

(h) Appeals and complaint processes.

40. The JISC, in the light of a unified accreditation system, shall identify options for transferring all of its accreditation functions to a common designated accreditation governance structure.

VII. Project cycle

A. Design of a joint implementation activity

41. A JI activity shall demonstrate that its implementation would result in real, measurable and additional reductions of anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks and that these reductions would not have been implemented in the absence of the JI mechanism.

42. JI activity participants shall prepare and submit to an accredited independent entity an activity design document that contains all of the information needed for validating that the activity complies with the applicable requirements established by these modalities and procedures and additional requirements elaborated by the JISC and those of the host Party. This information shall include but not be limited to:

(a) Documentation on environmental impact assessment reports of the JI activities, including transboundary impacts, in accordance with procedures as developed by the host Party, and, if those impacts are considered significant by the JI activity participant or the host Party, have undertaken an environment impact assessment in accordance with procedures that are required by the host Party;

(b) Documentation on how input from local stakeholders was invited and taken into account.

43. JI activity participants shall select a crediting period for the activity that shall not exceed [7] [10] years. [The crediting period] shall not start earlier than the submission of activity documentation to the [accredited independent entity] [secretariat] in accordance with paragraph [44 below [46 below. The crediting period may be renewed for periods of up to [7] [10] years, provided that, for each renewal, an accredited independent entity validates that the activity baseline is still accurate or has been updated taking new data into account, where applicable[, and that the activity is still additional, in accordance with the technical requirements referred to in paragraph 9 above]. [Once the current commitment period pursuant to Article 3 of the Kyoto Protocol has expired, the crediting period shall end, except if JI is continued on the basis of a decision to be adopted by the CMP.]

B. Validation of the joint implementation activity

44. The accredited independent entity shall make the activity design document publicly available through the secretariat, subject to the confidentiality provisions set out in paragraph 29 above, and shall invite comments from Parties and stakeholders on the activity design document and any supporting information for 30 days from the date that the activity design document is made publicly available.

45. An accredited independent entity shall validate that an activity meets the relevant requirements of Article 6 of the Kyoto Protocol, these modalities and procedures and any additional guidance provided by the JISC and, as applicable, by the host Party.

46. The accredited independent entity shall make its validation report publicly available through the secretariat, together with an explanation and justification of its findings, including a summary of the stakeholder comments received and a report on how due account was taken of those comments.

C. Registration and recording of the joint implementation activity

47. The host Party may register the activity if it meets all of the requirements set out in these modalities and procedures and any additional or elaborated standards developed by the JISC and, as applicable, by the host Party. The host Party shall decide whether to register the activity and shall make its decision publicly available through the secretariat. Registration is considered the formal approval of the respective joint implementation activity by the host Party. If the host Party decides not to register a proposed JI activity, it shall make the reasons for its decision publicly available through the secretariat.

48. Upon receipt of the notice of registration from the host Party, the secretariat shall record the registered JI activity with a unique and publicly available identifier, unless the JISC requests a review according to its rules and procedures within 30 days.

D. Monitoring of emission reductions and removals

49. JI activity participants shall monitor reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks that have already occurred in accordance with the monitoring plan of the registered activity and shall prepare a monitoring report.

50. JI activity participants shall submit the monitoring report to an accredited independent entity, which shall make the monitoring report publicly available through the secretariat.

51. Revisions, if any, to the monitoring plan shall not reduce the accuracy and/or completeness of the monitoring, shall be justified by the JI activity participants and shall be verified by an accredited independent entity in accordance with paragraph 52 below.

E. Verification of emission reductions and removals

52. The accredited independent entity shall, upon receipt of the monitoring report, verify that the reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks reported by the activity participants have been conducted in accordance with these modalities and procedures, as further elaborated by the JISC and, as applicable, by the host Party.

53. The accredited independent entity shall make its verification publicly available through the secretariat, together with an explanation and justification of its verification opinion.

54. The host Party shall accept the verification if it meets all of the requirements set out in these modalities and procedures and any additional or elaborated standards developed by the JISC and, as applicable, by the host Party. The host Party shall decide whether to accept the verification and shall submit a notification of acceptance to the JISC through the secretariat.

F. Issuance of emission reduction units

55. The JISC shall, 30 days after receipt of the notice of acceptance from the host Party, be deemed to have endorsed the issuance of ERUs on the basis of the verification of reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks and inform the host Party accordingly, unless the JISC requests a review according to its rules and procedures.

56. Subsequent to the endorsement by the JISC, the host Party shall expeditiously issue ERUs equivalent to the verified reductions in anthropogenic emissions by sources or enhancements of anthropogenic removals by sinks achieved by the activity, taking into account paragraph 33 above.

57. [Upon such issuance, the national registry administrator shall promptly forward two per cent of the issued ERUs, being the share of proceeds to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change in meeting the costs of adaptation) to an account designated by the Board of the Adaptation Fund.]

G. Appeals of decisions taken by the JISC

58. Any decision taken by the JISC in accordance with these modalities and procedures may be subject to appeal by affected stakeholders, in accordance with provisions to be determined by the CMP.